IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Habeas Corpus Petition No. 05 of 2006

1. Smt. Salmana @ Smt. Rani W/o Sh. Ravindra Kumar, D/o Ilias, at present R/o Village Aneki Hetampur, P.S. Ranipur, Distt. Hardwar through next friend and father-in-law Sri Jagan
2. Jagan S/o Sri Natthu Singh, R/o Village Aneki Hetampur, P.S. Ranipur, District Hardwar

..... Petitioners

Versus

1. State of Uttaranchal through Secretary, Home Affairs, Dehradun
2. Senior Superintendent of Police, Hardwar, Distt. Hardwar
3. Anshu chaudhary, SHO, P.S. Ranipur, Distt. Hardwar
4. Superintendent, Nari Niketan, Dehradun

.....Respondent

Sri S.P.S. Panwar, Sr. Advocate, Id. Counsel for the petitioner.
Learned G.A. for the respondent.

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

Dated: March 31, 2006

By means of this writ petition, the petitioner has prayed for the writ in the nature habeas corpus calling upon the respondents to produce the detainee before this Court had set her at liberty forthwith.

In compliance of order-dated 29.03.2006 passed by this Court, the statement of Petitioner No. 1 recorded by the C.J.M., Hardwar under Section 164 of Cr.P.C. is produced before this Court.

By order dated 25.03.2006, the C.J.M., Hardwar sent the petitioner No.1 to the Nari Niketan, Dehradun believing the version of the father of the Petitioner No.1 that her age is 14 years and she is minor.

Learned counsel for the petitioner has submitted that the prosecutrix Salmana has converted her religion and after become Hindu, she is also known with the name of Salmana alias Rani. The order dated 25.03.2006 has been passed by the C.J.M., Hardwar on the basis of the Scholar's Register & Transfer Certificate Form, Higher Secondary School, Kherli, Post Bahadarabad in which the date of birth of Petitioner No.1 is 15.07.1990. On that day, the prosecution moved an application for medical examination for determination of date of birth of the petitioner No.1. Learned counsel for the petitioner has annexed the medical certificate of the Doctor dated 27.03.2006 which was got done by the Investigating Officer. It appears that this was not produced before the Investigating Officer by the Magistrate concerned till 30.03.2006.

Therefore, we direct that the Medical Report determining the age of Petitioner No. 1 be filed by tomorrow before the C.J.M. concerned and if the Petitioner No.1- Smt. Salmana is found to be major according to medical report, she may be released accordingly.

With the aforesaid observation, the habeas corpus is disposed of finally.

A copy of this order shall be issued to learned counsel for the parties on payment of necessary charges.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang